

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.661 OF 1999**

Krupashankar Ramniranjan Singh  
and another

...Appellants

Vs.

Rajendra D. Shekhawat & Ors.

...Respondents

M/s. Narayan & Narayan for the Appellants

**CORAM: A.S.OKA, J.**

**DATED: JANUARY 18, 2005.**

**P.C.:**

1. The Appeal is preferred by the Defendant Nos.1 and 2 for challenging the order of temporary injunction granted by the Trial Court on 25th February 1999. By the said order pending final hearing of the suit filed by the Respondent No.1, the Appellants have been restrained from creating third party interests in respect of the suit property. The said order is in force almost for last about 5 years. The grievance of the learned Counsel for the Appellants is that by making an application, a contention was raised that in view of existence of arbitration clause, the suit filed by the Respondent No.1 was not maintainable. There is no finding recorded by the learned Trial Judge on the said aspect while deciding the Application for temporary injunction.

2. There is nothing in the impugned order to show that the application dated 31st July 1998 made by the Appellants raising the aforesaid contention has been decided. The Appellants can always raise the contention regarding maintainability of the suit which will be decided by the Trial Court in accordance with law. There is no merit in the Appeal.

3. Subject to observations which are made above, Appeal is dismissed with no order as to costs.

**Judge.**